IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5564 OF 2005

Shri. Malhari Pandharinath Gatkal
and Ors. ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri. R. M. Sawant for the Applicants.
Shri. A. S. Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 20, 2005.

P.C.:

1. Heard the learned Advocate appearing for the Applicants and the learned A.P.P. for the State. The offence registered against the Applicants and other accused is under sections 109, 143, 147, 148, 149, 302, 323, 324 of the Indian Penal Code and section 37(1), 135 of the Bombay Police Act.

2. The learned Counsel for the Applicants submitted that even the Applicants have sustained injuries and there are cross cases between the parties. He submitted that the statements of the witnesses recorded by the prosecution are stereo-type. He pointed out that there is no recovery at the instance of the Applicants. Hence, considerig the fact that the Applicants are not having any criminal antecedents, they are entitled to be enlarged on bail.

3. I have considered the submissions. The first

informant who is an eye-witness has ascribed clear role to both the Applicants. The allegation is that the Applicant No.1 assaulted the deceased by a sword on his leg and the Applicant No.2 assaulted the deceased by sword on his head. The version of the first informant is supported by the other witnesses. The Post Mortem Notes show that there are corresponding injuries on the person of the decased and the cause of death is due to injury to the brain and fracture of skull bone due to hard and sharp cutting object. There is C.L.W. over the right parietal region which is open, deep and one C.L.W. over the right side of occipital region. There is a crack fracture of right parietal bone as well as occipital bone. The recovery of the weapons is at the instance of the co-accused.

4. There is enough material on record to show the complicity of the Applicants. No case is made out for grant of bail. Accordingly, the Application is rejected with liberty to the Applicants to apply for expeditious disposal of the trial.

JUDGE